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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

JUN 13 1997

Federal Communications Commission
Office of Secretary

In the Matter of)

ADVANCED TELEVISION SYSTEMS)

AND THEIR IMPACT UPON THE)

EXISTING TELEVISION BROADCAST)

SERVICE)

MM Docket No. 87-268

To: The Commission

**PETITION FOR RECONSIDERATION OF
MT. MANSFIELD TELEVISION, INC.**

Mt. Mansfield, Inc. ("Mt. Mansfield"), the licensee of WCAX-TV, Channel 3, Burlington, Vermont, hereby petitions for reconsideration of the *Sixth Report and Order* ("*Sixth R & O*") in the above-captioned proceeding.^{1/}

As set forth in its comments in this proceeding, Mt. Mansfield is a CBS affiliate that currently provides predicted Grade B service to the northern two-thirds of Vermont as well as to significant portions of the surrounding area. In its comments, Mt. Mansfield emphasized the importance of service replication. It also expressed its concern that any DTV allocation scheme be preceded by formal Canadian coordination.^{2/} In the *Sixth R & O*, the Commission adopted a DTV Table without Canadian coordination, which not only prevents Mt. Mansfield

^{1/} *Sixth Report and Order*, MM Docket No. 87-268, FCC 97-115 (released April 21, 1997).

^{2/} Comments of Mt. Mansfield, Inc. (November 22, 1996).

from replicating its existing service on its DTV channel during the simulcast period but also jeopardizes future service to established viewers after that transition period is over. Mt.

Mansfield respectfully requests that the Commission (1) consider alternative DTV allotments for WCAX-TV that better serve the public interest in preserving established viewers' existing and future service; (2) make clear that all channels between 2-51 will be fairly and equally considered for the final core spectrum; and (3) *promptly* finalize coordinated tables to govern the allocation of frequencies within the U.S. - Canada border area, so that border area broadcasters can design and construct their DTV facilities with some certainty that coordination will not disrupt or later require changes in coverage.

1. As the Commission reaffirmed in the *Sixth R & O*, it is essential in this proceeding to establish an allocation scheme which “ensures that broadcasters have the ability to reach the audiences that they now serve and that viewers have access to the stations that they can now receive over-the-air.”^{3/} Despite this principle, the Commission adopted an allotment scheme in the *Sixth R & O* that would jeopardize continued service by Mt. Mansfield to viewers in areas it has served for many years. According to the Commission's own data, Mt. Mansfield's assignment to Channel 53 at 782 kW only allows DTV coverage of 91.9% of its NTSC service area, depriving some 28,000 residents of Mt. Mansfield's service area, particularly underserved rural residents surrounding Montpelier and Barre, of longstanding over-the-air service in the DTV era.^{4/} Mt. Mansfield is unfortunately unable at this time to propose a specific channel for

^{3/} *Sixth R & O*, ¶ 29.

^{4/} Based on past experience, the Longley-Rice methodology for determining
(continued...)

reallocation, because (1) the Commission has yet to release OET Bulletin No. 69, which is necessary to make a showing that a change will not increase interference; and (2) no minimum DTV spacing requirements have been established with regard to Canadian stations. It endorses MST's approach which requests that current DTV allotments be treated as provisional for 90 days following the release of OET Bulletin No. 69 so that the document may be used to craft solutions for problem areas.^{4/}

2. The uncertain status of Mt. Mansfield's existing Channel 3 in the DTV regime compounds this problem, by imposing unnecessary obstacles to its ability to improve its DTV coverage after the transition. Mt. Mansfield concurs with the Channel 2-6 petitioners that the *Sixth R & O* inappropriately singles out channel 2-6 licensees for "second class" status in the DTV world.^{6/} In the instant case, Mt. Mansfield is required to activate its DTV station outside the core (Channel 53), only to be forced off that channel after the transition. If Channel 3 is not "proven acceptable" by that time, as is now required,^{7/} Mt. Mansfield will be forced to move again. As the Channel 2-6 petitioners note, this uncertainty could "distort investments and

^{4/} (...continued)
coverage areas drastically overstates broadcast coverage in the mountainous terrain of Vermont. Consequently, WCAX-TV may well lose far more than the estimated 28,000 viewers under the Commission's data.

^{5/} Petition for Clarification and Partial Reconsideration of the Association for Maximum Service Television, Inc., at 17-18.

^{6/} Petition for Reconsideration of Certain Channel 2-6 Licensees, at 12 (May 29, 1997).

^{7/} *Sixth R & O*, ¶ 83.

dampen enthusiasm for full and vigorous DTV implementation.”^{8/} Mt. Mansfield cannot make critical planning and investment decisions so long as the post-transition status of Channel 3 remains unsettled. Moreover, far from effectuating the replication objective, this forced “double migration” could substantially impede Mt. Mansfield's efforts to achieve the goal of replication following the transition period, in light of the superior coverage available with Channel 3. Accordingly, the Commission should make clear that all channels between 2-51 will be fairly and equally considered for the final core spectrum. Moreover, Mt. Mansfield agrees with MST that new entrants should be required to compensate broadcasters for the cost of forced relocation to the core spectrum.^{9/}

3. Neither the *Sixth R & O* nor a recent *Public Notice*^{10/} on DTV in the Mexican border area resolves Mt. Mansfield's continuing concerns about the status of Canadian coordination expressed in its earlier comments.^{11/} The *Sixth R & O* indicates only that the Commission has “coordinated” the DTV Table with Canada and “believes that it will generally be acceptable” subject to “minor adjustments.”^{12/} The *Public Notice*, released on the same day, provides that “[w]e are now focusing on arriving at . . . [an] agreement on DTV with our friends

^{8/} Petition for Reconsideration of Certain Channel 2-6 Licensees, at 13.

^{9/} Petition for Clarification and Partial Reconsideration of the Association for Maximum Service Television, Inc., at 34-35. Without any assurance that the costs of a second forced relocation would be reimbursed, Mt. Mansfield agrees with MST that “it may be difficult to raise funds to construct the first DTV facility.” *Id.* at 35.

^{10/} *Public Notice*, Report No. IN 97-11 (April 21, 1997).

^{11/} See Comments of Mt. Mansfield, Inc. (Nov. 22, 1995); Comments of Mt. Mansfield, Inc. (Nov. 22, 1996).

^{12/} *Sixth R & O*, ¶ 171.

in Canada in the near future.”^{13/} Prompt Canadian coordination is an essential prerequisite for all of Mt. Mansfield's most important planning, land use and investment decisions during the DTV transition.^{14/} It is critical that Mt. Mansfield be able to design and construct its DTV facilities with some certainty that final coordination will not disrupt its efforts. Mt. Mansfield agrees with MST that the absence of final coordination on border allotments creates “a state of uncertainty that [will] impede the rapid build out the Commission and the industry have supported.”^{15/}

Mt. Mansfield respectfully requests that the Commission expedite completion of coordinated tables to govern the allocation of DTV frequencies in the U.S. - Canada border area. In the event formal coordination cannot promptly be achieved, the Commission's allotments in

^{13/} *Public Notice* at 1.

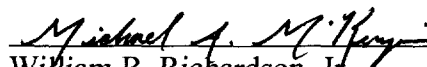
^{14/} The current DTV Table may conflict with U.S. obligations to Canada under the 1952 Agreement Relating to the Allocation of Television Channels, as amended. That Agreement requires “continuous cooperation” and formal notification to the other party within 10 days of the grant of an authorization within 250 miles of the border. *See* 3 U.S.T. 4443, 4445. It is not clear that Canada has been formally notified and given the opportunity to object to the DTV Table adopted in the *Sixth R & O*.

^{15/} Petition for Clarification and Partial Reconsideration of the Association for Maximum Service Television, Inc., at 46.

the *Sixth R & O* should be conditioned on the right of border area broadcasters to require subsequent reallocations that will be consistent with the Commission's core public interest objective of service replication.

Respectfully submitted,

MT. MANSFIELD TELEVISION, INC.



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June 13, 1997

CERTIFICATE OF SERVICE

I, Michael A. McKenzie, do hereby certify that I have this 13th day of June 1997, served by hand-delivery a copy of the foregoing "Petition For Reconsideration Of Mt. Mansfield Television, Inc." to:

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The Honorable Rachelle Chong
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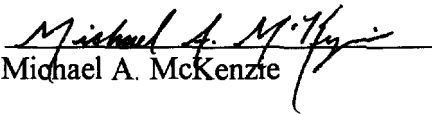
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